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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,468	12/04/2000	Werner Eberle	EBERLE(PCT)	7220

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EXAMINER
WAKS, JOSEPH

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/673,468	EBERLE, WERNER	
	Examiner	Art Unit	
	Joseph Waks	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 December 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In lines 2-3, "said bodies" is a legal phraseology.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the yoke as recited in claim 18.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 3-18** are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The element or the part of the carrier segments recited as yoke in claim 18 is not identified in drawings and not addressed in the specification.

5. **Claims 3-18** are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For the reasons indicated above one skilled in the art would not be able to make and/or use the invention.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 3-5, 10-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dukshtau et al. (US 4,264,836)** in view of **Hill (DE 19643561)**.

Dukshtau et al. disclose an electrical machine with at least two laminated and independently structured carrier segments 4 having suitable cavities 9-12, a yoke, and separately wound winding carriers 2_1-2_{40} detachably secured in the cavities. However, **Dukshtau et al.** do not disclose the winding carrier being limited by two adjacent non-wounded poles.

Hill discloses in Figures 7 and 8 an electrical machine having winding carriers 26 having a coil head and a shank and being limited by the yoke 30 and two adjacent non-wounded poles 27, and the coil 29 made of a profile wire, for the purpose of good utilization of space between the winding carriers and to decrease the winding losses and ensuring a magnetically homogenous air gap of the soft magnetic core of the stator and the rotor 22 (Re column 2, lines 22-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the machine as taught by **Dukshtau et al.** and to provide the winding carrier being limited by two adjacent non-wounded poles as taught by **Hill** for the purpose of good utilization of space between the winding carriers and to decrease the winding losses and ensuring a magnetically homogenous air gap between the soft magnetic core of the stator and the rotor.

The feature of the cross-section of the cavities being suitable for both rotational and linear type of electric machine is inherent to the disclosed structure.

Re claim 4, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Re claim 11, **Hill** discloses in Figures 7 and 8 the electrical machine having winding carriers 26 furnished with profile wire coils 29 to provide a close fit of the surfaces to ensure a good heat dissipation and low noise.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the machine as taught by **Dukshtau et al.** and to provide the winding carrier with the profile wire coils as taught by **Hill** for the purpose of providing a close fit of the surfaces thus ensuring a good heat dissipation and low noise. It would have been further an obvious matter of design choice to select the flat wire profile for the purposes indicated above, since applicant has not disclosed that the flat wire solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other profile that allows to achieve the same results.

Re claim 17, the method of using the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Response to Arguments

8. Applicant's arguments filed December 10, 2002 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation of the machine having a substantially constant air gap between rotor and stator has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Moreover, Hill clearly teaches the machine having a substantially constant air gap and the combined teaching of Dukshtau et al. and Hill disclose the invention as claimed.

In response to applicant's arguments against the references individually, one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this particulate case Dukshtau et al teach the detachably secured winding carries, while the winding carrier being limited by two adjacent non-wounded poles is taught by Hill. In

combination, Dukshtau et al. and Hill teach the invention as claimed. Furthermore, the wounded and unwounded poles in Hill are detachably connected as clearly shown in Figure 8.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

JOSEPH WAKS
PRIMARY PATENT EXAMINER
TC-2800

JW
January 22, 2003